

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

HOUSTON DOUGLAS,

Plaintiff,

v.

SERGEANT PATCHEN, *et al.*,

Defendants.

DECISION AND ORDER
14-CV-482-A

This *pro se* civil rights case was referred to Magistrate Judge Michael J. Roemer pursuant to 28 U.S.C. § 636(b)(1) for the conduct of pretrial proceedings. On or about October 3, 2019, plaintiff Douglas was deported from the United States to Jamaica, West Indies. Dkt. 115, ¶¶ 13-16. On April 17, 2020, Magistrate Judge Roemer filed a Report and Recommendation (Dkt. No. 122), recommending that the case be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b) because plaintiff did not comply with an Order to Show Cause (Dkt. No. 117) addressing plaintiff's inability to prosecute the case after his deportation.

No objection to the Report and Recommendation has been filed. Upon review of the Report and Recommendation and the underlying record, it is hereby

ORDERED, pursuant to 28 U.S.C. § 636(b)(1), for the reasons set forth in the Report and Recommendation (Dkt. No. 122), and because plaintiff Douglas did not show any progress toward being able to prosecute the case, see Dkt, Nos. 118-120, and did not seek additional time from the Court to do so, the case is dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b). The Court carefully considered whether a

lesser sanction would adequately address plaintiff's conduct. The record of the proceedings before the Magistrate Judge show appropriate solicitude was extended to plaintiff, including specifically that reasonable efforts were made by the Magistrate Judge to permit the defendant to attempt to arrange to prosecute the case. But plaintiff neither addressed his inability to prosecute the case after his deportation in response to the Order to Show Cause nor sought additional time to do so. Further, plaintiff neither filed any objection to the Report and Recommendation that specifically recommends that dismissal of the case be with prejudice nor sought additional time to do so. In light of these circumstances, the Court dismisses the action with prejudice. It is finally

ORDERED, that the Clerk shall enter Judgment in favor of defendants Sergeant Patchen, Officer O'Hara, Officer Hatch, Officer Gates, and Officer Fiddett, and shall close the case.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: May 18, 2020